Government Administration & Elections Committee
Public Hearing, Monday March 23, 2009 9:30 am Room 2B LOB
Re: HB 5113 – An Act Concerning Surety Bonds in Contracts for Public Projects
Testimony by: Joyce A. Wojtas, Mechanical Contractors Association of CT (MCAC)

The Mechanical Contractors Association of CT strongly **opposes** HB 5113, which **effectively eliminates the bonding requirements on state and municipal construction contracts.** This law is commonly referred to as "the Little Miller Act" and is similar to the federal Miller Act of 1935. The primary purpose of the bond statute is to **protect those who furnish labor and material on a public construction project.**

The payment bond is an alternate form of security provided to contractors and suppliers for payment on contracts of $100,000 or more if the owner or general contractor is in default. Mechanics liens cannot be filed against the owner on public work. The general contractor is the principal on the bond and the third party surety guarantees that qualified claimants will be paid. Payment bonds are also required for subcontractors with contracts of $100,000 or more.

A contractor or subcontractor's ability to get bonded bears a direct relationship to the contractor or subcontractor qualifying as a responsible bidder whether on public contracts or private contracts. In the **DAS criteria for prequalification** of contractors and subcontractors there are five categories that are deemed significant in the qualification process: They are: **Integrity, Work Experience (skill and ability-public & private), Experience and Qualifications of Supervisory Personnel Employed by the Applicant, Financial Condition, and Safety.**

To prequalify, the **contractor or subcontractor must include** "a statement of financial condition prepared by a certified public accountant which includes **information concerning the applicant's assets and liabilities, plant and equipment, bank and credit references, bonding company and maximum bonding capacity,** and other information as the commissioner deems relevant to an evaluation of the applicant's financial capacity and responsibility."

The criteria did not end up in the prequalification process by accident. Serious problems arose in the construction contracting arena in the past decade and resulted in the passage of the prequalification law in 2003, amended in 2007 to include subcontractors. An extraordinary amount of time and effort by DAS and industry representatives, including review of laws in other states, helped develop the system now in place to prequalify contractors for state and municipal work. **This bill makes a mockery of that law, the work that went into its implementation, and the paperwork submitted and fees paid by contractors and subcontractors to have the privilege of bidding on state and municipal construction projects.**

Elimination of the bonding protections is very far removed from contract reform. Has no one learned any lessons at all? This bill will result in numerous claims against the state/or a municipality and discourage responsible contractors and subcontractors from bidding on this work! Less competition means higher costs. MCAC urges defeat of this bill.

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